

This letter discusses the Department's regulation governing "Sales of Containers, Wrapping and Packing Materials and Related Products," at 86 Ill. Adm. Code 130.2070. It also discusses the warehousing of alcoholic liquors. (This is a GIL.)

April 19, 2006

Dear Xxxxx:

This letter is in response to your letter dated February 7, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

It has been suggested by your office that I write this letter to your department to confirm any obligations I have as a third party logistics supplier to be in compliance.

**Background Information:** ABC is a third party logistics provider offering warehousing/distribution and transportation services.

I am pursuing business from a company, located in Illinois, who manufacturers [sic] beer and pop and they will be storing these products in our facility in CITY, IL.

Ownership of the product will not change, it will be owned by the manufacturer. ABC will ship product out to their customers.

Please let me know at your earliest convenience, what do the laws of the State of Illinois, require me to do, if anything, to store this product at our facility.

Thanking you in advance for your assistance. This matter requires my immediate attention, so you can call or email me with your response.

## DEPARTMENT'S RESPONSE

Your letter has been forwarded to the Sales and Excise Tax division of the Legal Services Office. Therefore I am responding regarding sales tax requirements. The Retailers' Occupation Tax Act, 35 ILCS 120/1 et seq. imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. The tax is measured by the seller's gross receipts from such sales made in the course of such business. "Gross receipts" means the total selling price or the amount of such sales. When Illinois retailers sell tangible personal property to customers for a particular dollar amount, they have made sales subject to the Retailers' Occupation Tax. The retailers must pay Retailers' Occupation Tax to the Department based upon their gross receipts, or actual amount received, from the sales of the tangible personal property.

You have indicated that your company does not take title to the product being warehoused, distributed, or transported, so you are not the retailer of these goods. As a result, there is no sales tax due from you for these goods. However, if you are packing these goods in containers such as crates or boxes that are transferred to the purchaser and not returned to you, you may be selling packing materials.

Please refer to the Department's regulation governing "Sales of Containers, Wrapping and Packing Materials and Related Products," at 86 Ill. Adm. Code 130.2070. The purchase of packing materials for the purpose of resale is not taxable so long as the purchaser provides the seller with a Certificate of Resale in accordance with 86 Ill. Adm. Code 130.1405. However, when the purchaser of the packing materials resells the packing materials, he may be subject to tax. Please see 86 Ill. Adm. Code 130.2070.

Under the Liquor Control Act of 1934, it is unlawful for any warehouseman to receive, hold, store or deliver any alcoholic liquors without a certificate of registration from the Department. See 235 ILCS 5/7A-2. Application for a certificate of registration shall be made to the Department. See 86 Ill. Adm. Code 420.120.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote  
Associate Counsel

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